

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

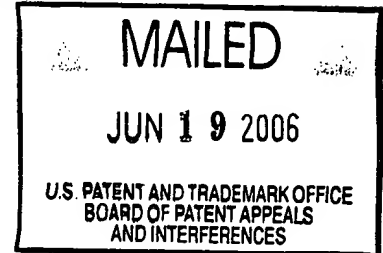
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT BARRITZ, STEVEN BARRITZ, and PER HELLBERG

Appeal No. 2006-0079
Application No. 09/726,166

ON BRIEF



Before THOMAS, RUGGIERO and MACDONALD, **Administrative Patent Judges.**

MACDONALD, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-40.

Invention

Appellants' invention relates to a method and system for verifying compliance with license conditions. The present invention allows plural licensors to monitor whether their licensed properties have been used in compliance with the terms of the license. Appellants' specification at page 9, line 23, through page 10, line 9. The foregoing and other objects of the invention are realized by a license compliance verification system (LCVS) that operates by interfacing with a user's general

purpose license manager and which is able to extract from data gathered by the general purpose license manager, information which is specific to licensors and which is then authenticated to assure licensors that it has not been modified, deleted in part, or otherwise tampered with. The system of the invention user a variety of expedients, including authentication and encryption technology to achieve its ends.

Claim 1 is representative of the claimed invention and is reproduced as follows:

1. A license compliance verification system, comprising:

a license manager that internally monitors use of licensed property, intended to be used by licensed users, and gathers data on the usage of the licensed property including by reference to a plurality of licensors of the license property; and

monitoring software that interfaces with the license manager and extracts from it licensor-specific data and authenticates the retrieved data such that licensors are assured, based on a set of license-specific rules, that data gathered by the license manager has not been altered or improperly deleted prior to its being provided to licensors.

References

The references relied on by the Examiner are as follows:

Bains et al. (Bains)	5,579,222	Nov. 26, 1996
Ginter et al. (Ginter)	5,892,900	Apr. 06, 1999

Rejections At Issue

Claims 1-40 stand rejected under 35 U.S.C. § 103 as being obvious over the combination of Bains and Ginter.

Throughout our opinion, we make references to the Appellants' briefs, and to the Examiner's Answer for the respective details thereof.¹

OPINION

With full consideration being given to the subject matter on appeal, the Examiner's rejections and the arguments of the Appellants and the Examiner, for the reasons stated *infra*, we reverse the Examiner's rejection of claims 1-40 under 35 U.S.C. § 103.

Whether the Rejection of Claims 1-40 Under 35 U.S.C. § 103 is proper?

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the invention as set forth in claims 1-40. Accordingly, we reverse.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a **prima facie** case of obviousness. **In re Oetiker**, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). **See also In re Piasecki**, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in

¹ Appellants filed an appeal brief on October 27, 2004. Appellants filed a reply brief on March 14, 2005. The Examiner mailed a First Examiner's Answer on January 10, 2005. The Examiner mailed a Second Examiner's Answer on July 31, 2005.

the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. **In re Fine**, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellants. **Oetiker**, 977 F.2d at 1445, 24 USPQ2d at 1444. **See also Piasecki**, 745 F.2d at 1472, 223 USPQ at 788.

An obviousness analysis commences with a review and consideration of all the pertinent evidence and arguments. "In reviewing the [E]xaminer's decision on appeal, the Board must necessarily weigh all of the evidence and argument." **Oetiker**, 977 F.2d at 1445, 24 USPQ2d at 1444. "[T]he Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion." **In re Lee**, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002).

With respect to independent claims 1 and 17 Appellants argue at page 4 of the brief, the prior art references do not teach a license manager which "gathers data and the usage of the licensed property ... by reference to a plurality of licensors of the licensed property." We agree.

To determine whether claim 1 and 17 are obvious over the references, we must first determine the scope of the claim. Our review finds that the term "licensed property" in claim 1 and 17 limited to a single software product. We reach this conclusion

Appeal No. 2006-0079
Application No. 09/726,166

because Appellants' specification uses the plural term "licensed properties" when referring to plural software products.

(Specification at page 9, line 6) We also find that claim 1 is limited to the single software product having "a plurality of licensors." This plural licensors/single product situation is specifically discussed in Appellants' specification at page 8, line 21, through page 9, line 1.

We agree with the Examiner that the references render obvious a system that tracks a plurality of licensed properties where each property has a unique licensor. However, that is not the claim we see before us. We find that Appellants' claim 1 and 17 are limited to a much more specialized problem in the art.

Therefore, we will not sustain the Examiner's rejection under 35 U.S.C. § 103.

Conclusion

In view of the foregoing discussion, we have not sustained the rejection under 35 U.S.C. § 103 of claims 1-40.

Appeal No. 2006-0079
Application No. 09/726,166

REVERSED

JAMES D. THOMAS
Administrative Patent Judge

Joseph F. Ruggiero
JOSEPH F. RUGGIERO
Administrative Patent Judge

ALLEN R. MACDONALD
Administrative Patent Judge

BOARD OF PATENT
APPEALS
AND
INTERFERENCES

AM / gw

Appeal No. 2006-0079
Application No. 09/726,166

OSTROLENK, FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403